



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 7, 1998

Ms. Susan M. Cory
General Counsel
Texas Workers' Compensation Commission
Southfield Building, MS-4D
4000 South IH-35
Austin, Texas 78704-7491

OR98-0900

Dear Ms. Cory:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 114203.

The Texas Workers' Compensation Commission (the "commission") received a request for seven categories of information including the first which seeks documents concerning "the conversion or transfer of the Texas Workers' Compensation Insurance Facility as set forth in Texas House Bill No. 976 (1997)." You indicate that you only seek a decision from this office concerning six documents pertaining to the first category of requested information. You claim that these documents are protected from required public disclosure by sections 552.106, 552.107, and 552.111 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue. Because you only seek a decision from this office about the six documents you have submitted, we presume that all other responsive information has been released.

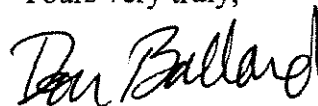
Each of the exceptions that you raise are intended to protect "advice, opinion, and recommendation" in various contexts. Section 552.106 of the Government Code excepts from disclosure "[a] draft or working paper involved in the preparation of proposed legislation." Open Records Decision No. 367 (1983). Section 107(1) protects an attorney's legal advice and opinion rendered to his client. Open Records Decision No. 574 (1990). Section 552.111 excepts from required public disclosure advice, opinion, or recommendation intended for use in a public agency's policy-making process. Open Records Decision No. 615 (1993). Generally, however, none of these exceptions protect purely factual material. See Open Records Decision Nos. 367 (1983)(section 552.106); 462 (1987)(attorney-client privilege); 615 (1993)(section 552.111).

The records that you submitted to this office contain two types of information: 1) general descriptions of legislation at issue, and 2) advice or opinion as to the possible effect or impact on the commission. As previously noted, we not believe that the mere recitation of the contents of proposed legislation constitutes "advice, opinion, or recommendation" for the purposes of any of the exclusions that you have raised; that is, they represent only factual material. Consequently, the commission must release those portions of the requested documents.

The remaining portions of the documents do, nevertheless, constitute protected "advice opinion or recommendation." Section 552.111 excepts "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ), and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. An agency's policymaking functions, however, do not encompass internal administrative or personnel matters; disclosure of information relating to such matters will not inhibit free discussion among agency personnel as to policy issues. Open Records Decision No. 615 (1993) at 5-6. We have marked those portions of the submitted documents that the commission may withhold, but all factual descriptions of the bills must be disclosed.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 114203

Enclosures: Marked documents

cc: Mr. C. Clay Haden
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(w/o enclosures)